



**BILLING CODE: 8070-01-P**

**FEDERAL HOUSING FINANCE AGENCY**

**FEDERAL HOUSING FINANCE BOARD**

**12 CFR Part 998**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of Federal Housing Enterprise Oversight**

**12 CFR Part 1730**

**RIN 2590-AA64**

**Repeal of Disclosure Regulations**

**AGENCIES:** Federal Housing Finance Agency; Federal Housing Finance Board; and Office of Federal Housing Enterprise Oversight.

**ACTION:** Final rule.

---

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is repealing two obsolete regulations issued by its predecessor agencies, the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (Finance Board) with respect to the entities regulated by OFHEO and by the Finance Board. The regulations being repealed govern public financial disclosures made by the entities with respect to certain federal securities laws. The Housing and Economic Recovery Act of 2008 obviates the need for these rules, making them obsolete and unnecessary. This final rule repeals the two regulations in their entirety.

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Peggy K. Balsawer, Assistant General Counsel, Office of General Counsel, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024, (202) 649-3060 (not a toll-free number). The telephone number for the Telecommunications Device for the Deaf is 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background and Analysis**

**A. Creation of the Federal Housing Finance Agency**

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA), Public Law No. 110-289, 122 Stat. 2654, established FHFA as an independent agency of the Federal Government to regulate and oversee the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation (collectively, the Enterprises), and the Federal Home Loan Banks (Bank(s)) (collectively, the regulated entities). HERA transferred to FHFA the supervisory and oversight responsibilities of OFHEO over the Enterprises, the oversight responsibilities of the Finance Board over the Banks and the Office of Finance (OF), and certain functions of the Department of Housing and Urban Development. See id. at section 1101, 122 Stat. 2661-63. FHFA's mission is to ensure, among other things, that the regulated entities operate "in a safe and sound manner" and that their activities "foster liquid, efficient, competitive and resilient national housing finance markets." Id. at section 1102, 122 Stat. 2663-64. The regulations promulgated by OFHEO and the Finance Board continue to remain in effect

with respect to the regulated entities until they are superseded by FHFA-issued regulations. See id. at sections 1301, 1302, 1311, 1312, 122 Stat. 2794-95, 2797-98.

B. Part 1730 (Disclosure of Financial and Other Information)

The Enterprises' securities were expressly exempted from the Securities Exchange Act of 1934 (the 1934 Act) by their respective charters. In 2002, both Enterprises agreed to voluntarily register their common stock with the Securities and Exchange Commission (SEC) under section 12(g) of the 1934 Act. Section 12(g) registration also subjects registrants to the requirement that they submit periodic disclosures to the SEC in accordance with the 1934 Act and associated SEC rules. OFHEO's issuance of Part 1730 in 2003 was expressly intended in part to "facilitate the process" of registration. 68 FR 16715, 16716 (Apr. 7, 2003). The rule provides that compliance with related disclosure obligations under the securities laws would satisfy OFHEO's disclosure requirements.

In July 2008, HERA expressly removed the exemption for Enterprise equity securities from sections 12, 13, 14 and 16 of the 1934 Act. See HERA section 1112, 122 Stat. 2677, adding 1934 Act section 38(a), 15 U.S.C. Section 78oo(a). As a result, the Enterprises were statutorily required to register their equity securities under section 12 of the 1934 Act and comply with the SEC disclosure rules attendant to registration. The need for OFHEO's regulation was thus obviated by Congressional action, and consequently the regulation is obsolete and unnecessary, warranting repeal and removal

from the Code of Federal Regulations.<sup>1</sup> Therefore, FHFA is hereby repealing part 1730 in its entirety.

C. Part 998 (Registration of Federal Home Loan Bank Equity Securities)

Part 998 was issued by the Finance Board to require each Bank to register (voluntarily from the perspective of the 1934 Act) a class of its equity securities under section 12(g) of the 1934 Act and make the attendant required periodic disclosures to the SEC. Prior to the Finance Board's issuance of Part 998, the Banks did not register their equity securities under the 1934 Act, but had been supplying information to the OF, the Banks' fiscal agent, to enable the OF to prepare combined annual and quarterly financial reports on behalf of the entire Bank system. However, those reports were submitted to the Finance Board rather than the SEC, and otherwise did not fully comply with 1934 Act standards and associated SEC rules.

The enactment of HERA in 2008 imposed a statutory requirement on each Bank to register a class of its common stock under section 12(g) and continue to maintain such registration regardless of the number of members holding such stock at any given time. See HERA section 1112, 122 Stat. 2677, adding 1934 Act section 38(b), 15 U.S.C. Section 78oo(b)(1).<sup>2</sup> As a result of SEC mandatory registration, each Bank is now required to make the periodic public disclosures made by similarly situated SEC registrants. Thus, the reason for the Finance Board regulation was superseded by Congressional action, and consequently the regulation is obsolete and warrants repeal and

---

<sup>1</sup>The 1934 Act permits termination of registration under some narrow circumstances. In the unlikely event an Enterprise becomes eligible to terminate its securities registration during conservatorship, FHFA would take appropriate action, should the Conservator consent to such a course, to ensure that periodic disclosures are not suspended.

<sup>2</sup> This provision applies only to the Banks and effectively precludes the termination of a Bank's registration.

removal from the Code of Federal Regulations. Therefore, FHFA is hereby repealing part 998 in its entirety.

D. Considerations of Differences between the Banks and the Enterprises

Section 1201 of HERA requires FHFA's Director, when promulgating regulations "of general applicability and future effect" relating to the Banks, to consider the differences between the Banks and the Enterprises as they may relate to the Banks' cooperative ownership structure, mission of providing liquidity to members, affordable housing and community development mission, capital structure, and joint and several liability. HERA section 1201, 122 Stat. 2782 (amending 12 U.S.C. 4513). This final rule does not impose any new obligations on the Banks, but instead simply removes an existing Finance Board regulation that, as a result of the passage of HERA and changed circumstances, is obsolete, unnecessary and no longer of any regulatory purpose. The repeal of part 998 of title 12 of the Code of Federal Regulations therefore would not have any "future effect" on the Banks. For these reasons, a section 1201 analysis is not required for this final rule.

**II. Notice and Public Participation**

FHFA finds that good cause exists under 5 U.S.C. 553(b)(B) of the Administrative Procedure Act for adopting these rule changes as a final rule without public notice and comment because the subject regulations currently have no regulatory purpose or value and thus their removal would be insignificant in nature and impact and of no consequence to the industry and the public. The provisions of part 1730 were expressly intended to facilitate the Enterprises' securities registration and associated financial disclosures, which had already been agreed to by the Enterprises. These

requirements have subsequently been independently mandated under HERA. Similarly, the provisions of part 998 relate solely to the Finance Board's requirement that the Banks register their equity securities under the 1934 Act and make attendant financial disclosures. These requirements too were subsequently mandated by the provisions of HERA. Neither of these regulations includes provisions that are appropriate for FHFA to carry over and incorporate into its own regulations, and thus they should be repealed and removed from the Code of Federal Regulations. For these reasons, FHFA believes that public comments are unnecessary and would serve no purpose.

### **III. Paperwork Reduction Act**

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

### **IV. Regulatory Flexibility Act**

The final rule applies only to the Banks and Enterprises, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). See 5 U.S.C. 601(6). Therefore in accordance with section 605(b) of the RFA, FHFA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

### **List of Subjects**

#### 12 CFR Part 998

Credit, Federal home loan banks, Financial disclosure, Government-sponsored enterprises, Records, Reporting and recordkeeping, Securities disclosure.

#### 12 CFR Part 1730

Financial disclosure, Government-sponsored enterprises, Records, Reporting and recordkeeping.

Accordingly, for reasons stated in the Supplementary Information and under the authority of 12 U.S.C. 4511, 4512, 4513, and 4526, FHFA amends subchapter M of chapter IX and subchapter C of chapter XVII of title 12 of the Code of Federal Regulations as follows:

**Chapter IX—Federal Housing Finance Board**

**Subchapter M—Federal Home Loan Bank Disclosures**

**PART 998—[Removed]**

1. Remove part 998.

**Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development**

**Subchapter C—Safety and Soundness**

**PART 1730—[Removed]**

3. Remove part 1730.

---

Edward J. DeMarco,  
Acting Director, Federal Housing Finance Agency.

Dated: March 5, 2013. \_\_\_\_\_

[FR Doc. 2013-05765 Filed 03/12/2013 at 8:45 am; Publication Date: 03/13/2013]